IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL ST.NO. 39722 OF 1999.

Thakubai Sitaram Mundhe & others. ... Appellants.

Versus.

Hausabai Damu Mondhe & others. ... Respondents.

Shri P.B.Shah for the Appellants.

CORAM : ABHAY S.OKA, J.

DATED : 30th November, 2007.

P.C.:

1. Heard the Advocate for the Appellants. The Appellants are the original Defendants. The suit filed by the original Plaintiffs for partition and separate possession is decreed by the trial Court which has been confirmed in Appeal by the District Court. The only dispute is as regards Gat No.171. The contention of the Appellants is that the said property was a self acquired property of Rama which has not been accepted by the Courts below on the ground that there was no evidence in that behalf.

2. The learned Advocate for the Appellants has invited my attention to the deposition of the original Defendant No.4 and contended that there was enough evidence on record to show that the suit property was self acquired property of Rama. He, therefore, submitted that the Courts below have committed an error.

3. I have considered the submissions. The findings of the Courts below are that the Appellants have failed to establish that the deceased Rama had a source of income to purchase the said land in the year 1936 and that the deceased Rama had purchased the said property from his own income. In the deposition pointed out by the Advocate for the Appellants, the Defendant No.4 whose age on the date of recording of evidence was 30 years has deposed in the year 1994 regarding the acquisition of the property by the deceased Rama in the year 1936.

4. The concurrent findings of facts recorded by the Courts below are based on appreciation of oral and documentary evidence on record. No substantial question of law arises. The Appeal is dismissed.

Judge.